

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

DRI MARK PRODUCTS, INC.,

Plaintiff,

v.

WILPAK INDUSTRIES, INC.,

Defendants.

No. 04-CV-696 (JBW)

MEMORANDUM & ORDER

JACK B. WEINSTEIN, Senior District Judge:

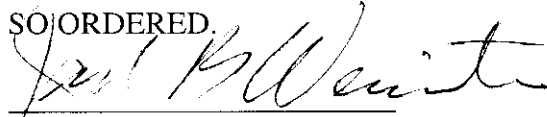
The plaintiff moves to set aside the recommendation and report of the Magistrate Judge denying, without prejudice, plaintiff's motion for summary judgment on defendant's inequitable conduct counterclaim, granting defendant's request to depose plaintiff's attorney Mr. Moskowitz concerning the inequitable conduct defense and deferring the issue of disqualification of Mr. Moskowitz and the Ostrolenk firm. The plaintiff's motion to set aside the recommendation and report of the Magistrate Judge is denied.

The recommendation and report is adopted in full and made the order of this Court. The findings in the recommendation and report on the materiality of Judge Baer's decision in *Dri Mark Products, Inc. v. National Ink, Inc.*, No. 01 CV 6541(HB) 2002 WL 550968 (S.D.N.Y. Apr. 11, 2002) are made for the purposes of this motion only.

The deposition of plaintiff's counsel, Mr Moskowitz, was conducted before the court. No further discovery is necessary.



SO ORDERED.

A handwritten signature in cursive script, appearing to read "Jack B. Weinstein", written over a horizontal line.

Jack B. Weinstein

Dated: October 5, 2006
Brooklyn, New York